

SENATE BILL No. 614

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-18.

Synopsis: Drinking water and wastewater loan funds. Allows a private entity that renders wastewater collection and treatment service to the public to receive financial assistance from the wastewater revolving loan fund and the supplemental wastewater assistance fund. Allows a private entity that renders water utility service to the public to receive financial assistance from the drinking water revolving loan fund and the supplemental drinking water assistance fund.

Effective: July 1, 1999.

Gard

January 21, 1999, read first time and referred to Committee on Environmental Affairs.



C
o
p
y

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 614

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-83 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 83. (a) "Financial
3 assistance agreement", for purposes of IC 13-18-13 and IC 13-18-21,
4 refers to an agreement among:
5 (1) the budget agency; and
6 (2) a political subdivision, **an investor owned wastewater**
7 **utility, or an investor owned water utility;**
8 establishing the terms and conditions of a loan or other financial
9 assistance, including forgiveness of principal if allowed under federal
10 law, by the state to the political subdivision, **investor owned**
11 **wastewater utility, or investor owned water utility.**
12 (b) "Financial assistance agreement", for purposes of IC 13-19-5,
13 means an agreement between the authority and a political subdivision
14 that:
15 (1) is approved by the budget agency; and
16 (2) establishes the terms and conditions of a loan or other
17 financial assistance by the state to the political subdivision.



SECTION 2. IC 13-11-2-112.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 112.3. "Investor owned wastewater utility", for purposes of IC 13-18-13, means a private entity that renders wastewater collection and treatment service to the public.**

SECTION 3. IC 13-11-2-112.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 112.4. "Investor owned water utility", for purposes of IC 13-18-21, means a private entity that renders water utility service to the public.**

SECTION 4. IC 13-18-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of political subdivisions **and investor owned wastewater utilities** under this chapter.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

(1) gifts to the fund; and

(2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund that is:

(1) not currently needed to meet the obligations of the fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

(1) the department;

(2) the budget agency;

(3) a political subdivision **or an investor owned wastewater utility;**

(4) the Indiana bond bank; or



(5) any person to which the department, the budget agency, or a political subdivision **or investor owned wastewater utility** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 5. IC 13-18-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to political subdivisions **and investor owned wastewater utilities** for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.

(2) Pay the cost of administering the fund and the program.

(3) Conduct all other activities that are permitted by the federal Clean Water Act.

SECTION 6. IC 13-18-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The budget agency shall do the following:

(1) Manage and implement the financial aspects of the program and supplemental program.

(2) Cooperate with the department in the administration and management of the program and supplemental program.

(3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.

(4) Be the point of contact with political subdivisions, **investor owned wastewater utilities**, and other interested persons in preparing and providing program information.

(5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.

(6) Prepare or cause to be prepared each financial assistance agreement.

(7) Sign each financial assistance agreement.

(8) Conduct or cause to be conducted an evaluation as to the

C
O
P
Y



financial ability of each political subdivision **and investor owned wastewater utility** to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.

(9) Prepare, jointly with the department, annual reports concerning the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly.

(11) Enter into memoranda of understanding with the department concerning the administration and management of the following:

(A) The fund.

(B) The program.

(C) The supplemental fund.

(D) The supplemental program.

SECTION 7. IC 13-18-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The department and the budget agency may:

- (1) provide services to a political subdivision **or an investor owned wastewater utility** in connection with a loan or other financial assistance, including advisory and other services; and
- (2) charge a fee for services provided.

(b) The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision **or an investor owned wastewater utility** under this chapter, regardless of whether the application is approved or rejected.

(c) A political subdivision may pay fees charged under this section.

SECTION 8. IC 13-18-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

(b) Based on the recommendations made under subsection (a), the



1 budget agency may make loans and provide other financial assistance
 2 from the fund to or for the benefit of political subdivisions **and**
 3 **investor owned wastewater utilities.**

4 SECTION 9. IC 13-18-13-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The budget agency
 6 may make loans or provide other financial assistance from the fund to
 7 or for the benefit of a political subdivision **or an investor owned**
 8 **wastewater utility** under the following conditions:

9 (1) The loan or other financial assistance must be used:

10 (A) for planning, designing, constructing, renovating,
 11 improving, or expanding wastewater collection and treatment
 12 systems and other activities necessary or convenient to
 13 complete these tasks;

14 (B) to:

15 (i) establish reserves or sinking funds; or

16 (ii) provide interest subsidies;

17 (C) to pay financing charges, including interest on the loan or
 18 other financial assistance during construction and for a
 19 reasonable period after the completion of construction; or

20 (D) to pay the following:

21 (i) Consultant, advisory, and legal fees.

22 (ii) Any other costs or expenses necessary or incident to the
 23 loan, other financial assistance, or the administration of the
 24 fund and the program.

25 (2) Subject to section 15 of this chapter, upon recommendation of
 26 the budget agency the state board of finance shall establish the
 27 interest rate or parameters for establishing the interest rate on
 28 each loan, including parameters for establishing the amount of
 29 interest subsidies.

30 (3) The budget agency shall establish the terms and conditions
 31 that the budget agency considers necessary or convenient to:

32 (A) make loans; or

33 (B) provide other financial assistance under this chapter.

34 SECTION 10. IC 13-18-13-12 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A political
 36 subdivision **or an investor owned wastewater utility** receiving a loan
 37 or other financial assistance from the fund shall enter into a financial
 38 assistance agreement. A financial assistance agreement is a valid,
 39 binding, and enforceable agreement of the political subdivision **or**
 40 **investor owned wastewater utility.**

41 SECTION 11. IC 13-18-13-13 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The budget agency

C
O
P
Y



may sell loans or evidences of other financial assistance and other obligations of political subdivisions **and investor owned wastewater utilities** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

SECTION 12. IC 13-18-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) The budget agency may pledge loans or evidences of other financial assistance and other obligations of political subdivisions **and investor owned wastewater utilities** evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of political subdivisions **and investor owned wastewater utilities**; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of political subdivisions **and investor owned wastewater utilities**;

to the extent permitted by the federal Clean Water Act.

(b) The budget agency must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.



SECTION 13. IC 13-18-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

- (1) A base or subsidized interest rate that:
 - (A) would be payable by political subdivisions **or investor owned wastewater utilities** other than political subdivisions **or investor owned wastewater utilities** described in subdivision (2) or (3); and
 - (B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.
 - (2) A base reduced or more heavily subsidized interest rate, that:
 - (A) would be payable by political subdivisions **or investor owned wastewater utilities** whose median household incomes are:
 - (i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and
 - (ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and
 - (B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater collection and treatment system.
 - (3) A base zero (0) or most heavily subsidized interest rate that:
 - (A) would be payable on loans made to political subdivisions **or investor owned wastewater utilities** whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and
 - (B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.
- (b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan under section 10 of this chapter, shall take into account the following:
- (1) Credit risk.
 - (2) Environmental enforcement and protection.
 - (3) Affordability.
 - (4) Other fiscal factors the budget agency considers relevant.



(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:

- (1) revenue bonds payable from and secured by political subdivisions **and investor owned wastewater utilities**; and
- (2) loan payments made by and loan payments made to political subdivisions **and investor owned wastewater utilities**.

It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

SECTION 14. IC 13-18-13-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. The budget agency shall require that a political subdivision **or an investor owned wastewater utility** receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the political subdivision **or investor owned wastewater utility** to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

SECTION 15. IC 13-18-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency, including the treasurer of state:

- (1) that is the custodian of money payable to a political subdivision **or an investor owned wastewater utility**, other than money in payment for goods or services provided by the political subdivision **or investor owned wastewater utility**; and
- (2) after written notice from the budget director that the political subdivision **or investor owned wastewater utility** is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that political subdivision **or investor owned wastewater utility** and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing the default.

(b) The withholding of payment from the political subdivision **or investor owned wastewater utility** and payment to:



(1) the budget agency; or
 (2) the Indiana bond bank;
 as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 16. IC 13-18-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to political subdivisions **and investor owned wastewater utilities**, the budget agency may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the federal Clean Water Act to or for the benefit of political subdivisions **and investor owned wastewater utilities**, including using money in the fund or the supplemental fund to enhance the obligations of political subdivisions **and investor owned wastewater utilities** issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-13-2(e); or

(ii) an account established within such a fund; or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision **or an investor owned wastewater utility** or for bonds issued by the Indiana bond bank if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by political subdivisions **or investor owned wastewater utilities** or of bonds issued by the Indiana bond bank.

(b) The budget agency may enter into any agreements with the Indiana bond bank, **or** political subdivisions, **or investor owned wastewater utilities** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 17. IC 13-18-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The supplemental wastewater assistance fund is established to provide money for grants, loans, and other financial assistance to or for the



C
o
p
y

benefit of political subdivisions **and investor owned wastewater utilities** under this chapter.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the department, the budget agency, a political subdivision, **an investor owned wastewater utility**, the Indiana bond bank, or any person to which the department, the budget agency, or a political subdivision or an **investor owned wastewater utility** is obligated, as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 18. IC 13-18-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. Money in the supplemental fund may be used to do the following:



(1) Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions **and investor owned wastewater utilities** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or stormwater collection and treatment systems and water supply systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act.

(2) Pay the cost of administering the supplemental fund and the supplemental program.

(3) Fund amendments to grants awarded before July 1, 1991, from the stream pollution control grant program.

(4) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

SECTION 19. IC 13-18-13-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The budget agency may make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a political subdivision or an **investor owned wastewater utility** under the following conditions:

(1) A grant, loan, or other financial assistance must be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or stormwater collection and treatment systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish reserves or sinking funds; or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 20. IC 13-18-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. A political



subdivision **or an investor owned wastewater utility** receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement under this section is a valid, binding, and enforceable agreement of the political subdivision **or investor owned wastewater utility**.

SECTION 21. IC 13-18-13-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. (a) The budget agency may sell loans or evidences of other financial assistance and other obligations of political subdivisions **and investor owned wastewater utilities** evidencing the loans or other financial assistance from the supplemental fund:

- (1) periodically;
- (2) at any price; and
- (3) on terms acceptable to the department and the budget agency.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund or the fund at the direction of the budget director.

SECTION 22. IC 13-18-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 29. (a) The budget agency may pledge:

- (1) loans or evidences of other financial assistance; and
- (2) other obligations of political subdivisions **and investor owned wastewater utilities** evidencing the loans or other financial assistance;

from the supplemental fund to secure other loans or financial assistance from the fund or the supplemental fund to or for the benefit of political subdivisions **and investor owned wastewater utilities**.

(b) The terms of a pledge under this section or IC 4-23-21-18(e) (before its repeal) must be acceptable to the budget agency.

(c) Notwithstanding any other law, a pledge of property made under this section or IC 4-23-21-18(e) (before its repeal) is or was binding from the time the pledge is or was made. Revenues, other money, or other property pledged and thereafter received are or were immediately subject to the lien of the pledge without any further act. The lien of a pledge is or was binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the



1 records of the budget agency.

2 (e) Action taken to:

3 (1) enforce a pledge under this section or IC 4-23-21-18(e)
4 (before its repeal); and

5 (2) realize the benefits of the pledge;
6 is limited to the property pledged.

7 (f) A pledge under this section or IC 4-23-21-18(e) (before its
8 repeal) does not create a liability or indebtedness of the state.

9 SECTION 23. IC 13-18-21-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The drinking
11 water revolving loan fund is established to provide money for loans and
12 other financial assistance under this chapter to or for the benefit of
13 political subdivisions **and investor owned water utilities**, including
14 forgiveness of principal if allowed under federal law.

15 (b) The general assembly may appropriate money to the fund.
16 Grants or gifts of money to the fund from the federal government or
17 other sources and the proceeds of the sale of:

18 (1) gifts to the fund; and

19 (2) loans and other financial assistance, as provided in sections 10
20 through 14 of this chapter;
21 shall be deposited in the fund.

22 (c) Repayments of loans and other financial assistance, including
23 interest, premiums, and penalties, shall be deposited in the fund.

24 (d) The treasurer of state shall invest the money in the fund that is:

25 (1) not currently needed to meet the obligations of the fund; and

26 (2) not invested under subsection (e);
27 in the same manner as other public money may be invested. Earnings
28 that accrue from these investments shall be deposited in the fund.

29 (e) As an alternative to subsection (d), the budget agency may invest
30 or cause to be invested all or part of the fund in a fiduciary account or
31 accounts with a trustee that is a financial institution. Notwithstanding
32 any other law, an investment may be made by the trustee in accordance
33 with at least one (1) trust agreement or indenture. A trust agreement or
34 indenture may allow disbursements by the trustee to:

35 (1) the department;

36 (2) the budget agency;

37 (3) a political subdivision **or an investor owned water utility**;

38 (4) the Indiana bond bank; or

39 (5) any person to which the department, the budget agency, or a
40 political subdivision, **or an investor owned water utility** is
41 obligated, as provided in the trust agreement or indenture.

42 The state board of finance must approve any trust agreement or



indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from four percent (4%) of the money allotted to the state under 42 U.S.C. 300j-12.

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 24. IC 13-18-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to political subdivisions **and investor owned water utilities** for the:

(A) planning;

(B) designing;

(C) construction;

(D) renovation;

(E) improvement;

(F) expansion; or

(G) any combination of clauses (A) through (F);

for drinking water systems that will facilitate compliance with national primary drinking water regulations applicable to drinking water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if appropriated by the general assembly and an adequate state match is available, the department and the budget agency shall use two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to political subdivisions **and investor owned water utilities** serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this

C
o
p
y



subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to public water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), that regularly serve less than ten thousand (10,000) persons in Indiana, to the extent that the money can be obligated for eligible projects of public water systems.

(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the budget agency and the department shall develop and implement a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the budget agency and the department to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. The department has primary responsibility to carry out this subsection.

SECTION 25. IC 13-18-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program.
- (2) Cooperate with the department in the administration and management of the program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with political subdivisions, **investor owned water utilities**, and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Execute each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each political subdivision **and investor owned water utility** to pay the loan or other financial assistance and



C
O
P
Y

other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.

(9) Prepare, jointly with the department, annual reports concerning the fund and the program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly.

(11) Enter into memoranda of understanding with the department concerning the administration and management of the fund and the program.

SECTION 26. IC 13-18-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The department and the budget agency may:

(1) provide services to a political subdivision **or an investor owned water utility** in connection with a loan or other financial assistance, including advisory and other services; and

(2) charge a fee for services provided.

(b) The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a political subdivision **or an investor owned water utility**, regardless of whether the application is approved or rejected.

(c) A political subdivision may pay fees charged under this section.

SECTION 27. IC 13-18-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions **and investor owned water utilities**.

SECTION 28. IC 13-18-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a political subdivision **or an investor owned water utility** under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for planning, designing, constructing, renovating,



C
o
p
y

improving, and expanding drinking water treatment systems and for other activities necessary or convenient to complete these tasks;

(B) to:

- (i) establish reserves or sinking funds; or
- (ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

- (i) Consultant, advisory, and legal fees.
- (ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

SECTION 29. IC 13-18-21-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A political subdivision **or an investor owned water utility** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision **or investor owned water utility**.

SECTION 30. IC 13-18-21-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The budget agency may sell loans or evidence of other financial assistance and other obligations of political subdivisions **and investor owned water utilities** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

SECTION 31. IC 13-18-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) The budget agency may pledge loans or evidence of other financial assistance and other obligations of political subdivisions **and investor owned water**



1 **utilities** evidencing the loans or other financial assistance from the
2 fund to secure:

3 (1) other loans or financial assistance from the fund to or for the
4 benefit of political subdivisions **and investor owned water**
5 **utilities;** or

6 (2) other loans or financial assistance from the supplemental fund
7 to or for the benefit of political subdivisions **and investor owned**
8 **water utilities;**

9 to the extent allowed by the federal Safe Drinking Water Act (42
10 U.S.C. 300f et seq.).

11 (b) The budget agency must approve the terms of a pledge under
12 this section.

13 (c) Notwithstanding any other law, a pledge of property made under
14 this section is binding from the time the pledge is made. Revenues,
15 other money, or other property pledged and received are immediately
16 subject to the lien of the pledge without any other act. The lien of a
17 pledge is binding against all parties having claims of any kind in tort,
18 contract, or otherwise against:

- 19 (1) the department;
20 (2) the budget agency; or
21 (3) the fund;

22 regardless of whether the parties have notice of any lien.

23 (d) A resolution, an indenture, or other instrument by which a
24 pledge is created does not have to be filed or recorded, except in the
25 records of the budget agency.

26 (e) Action taken to:

- 27 (1) enforce a pledge under this section; and
28 (2) realize the benefits of the pledge;

29 is limited to the property pledged.

30 (f) A pledge under this section does not create a liability or
31 indebtedness of the state.

32 SECTION 32. IC 13-18-21-15 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) In
34 recommending to the state board of finance the interest rate or
35 parameters for establishing the interest rate on each loan (other than a
36 loan to a qualified entity described in IC 13-11-2-164(b)(4)), as
37 provided in section 10 of this chapter, the budget agency shall
38 recommend and the state board of finance shall establish the following:

39 (1) A base or subsidized interest rate that:

- 40 (A) would be payable by political subdivisions **or investor**
41 **owned water utilities** other than political subdivisions **or**
42 **investor owned water utilities** described in subdivision (2) or



- 1 (3); and
 2 (B) may provide that payment of interest is not required during
 3 all or part of the estimated construction period for the drinking
 4 water treatment system.
- 5 (2) A base reduced or more heavily subsidized interest rate that:
 6 (A) is payable by a political subdivision **or an investor owned**
 7 **water utility** with median household incomes that are:
 8 (i) not more than the state median household income for an
 9 area that is not a metropolitan area, as determined and
 10 reported periodically by the federal government; and
 11 (ii) not less than eighty-one percent (81%) of the state
 12 median household income for an area that is not a
 13 metropolitan area; and
 14 (B) may provide that payment of interest is not required during
 15 all or part of the estimated construction period for the drinking
 16 water treatment system.
- 17 (3) A base of zero (0) or the most heavily subsidized interest rate
 18 that:
 19 (A) would be payable on loans made to political subdivisions
 20 **or investor owned water utilities** with median household
 21 incomes that are not more than eighty percent (80%) of the
 22 state household income for an area that is not a metropolitan
 23 area; and
 24 (B) may provide that payment of interest is not required during
 25 all or part of the estimated construction period of the drinking
 26 water treatment system.
- 27 (b) The budget agency, in recommending to the state board of
 28 finance the interest rate or parameters for establishing the interest rate
 29 on each loan (including loans to a qualified entity described in
 30 IC 13-11-2-164(b)(4)) under section 10 of this chapter, shall take into
 31 account the following:
 32 (1) Credit risk.
 33 (2) Environmental, water quality, and health protection.
 34 (3) Affordability.
 35 (4) Other fiscal factors the budget agency considers relevant.
- 36 (c) In financing the program, the Indiana bond bank and the Indiana
 37 development finance authority shall issue at the budget agency's
 38 request:
 39 (1) revenue bonds payable from and secured by political
 40 subdivisions **and investor owned water utilities**; and
 41 (2) loan payments made by and to political subdivisions **and**
 42 **investor owned water utilities.**



The budget agency or the state board of finance are not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

SECTION 33. IC 13-18-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. The budget agency shall require a political subdivision **or an investor owned water utility** receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the political subdivision **or investor owned water utility** to:

(1) operate and maintain the drinking water treatment system; and

(2) pay the obligations of the drinking water treatment system.

SECTION 34. IC 13-18-21-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a political subdivision **or an investor owned water utility**, other than money in payment for goods or services provided by the political subdivision **or investor owned water utility**, may withhold payment of money from that political subdivision **or investor owned water utilities** and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing a default. Withholding payment under this subsection may not occur until after written notice from the budget director that the political subdivision **or investor owned water utility** is in default on the payment of principal or interest on a loan or evidence of other financial assistance.

(b) The withholding of payment from the political subdivision **or investor owned water utility** and payment to:

(1) the budget agency; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 35. IC 13-18-21-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to political subdivisions **and investor owned water utilities**, the budget agency may use the money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit



of political subdivisions **and investor owned water utilities**, including using money in the fund or a supplemental fund, including the supplemental fund established by section 21 of this chapter, to enhance the obligations of political subdivisions **and investor owned water utilities** issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision **or investor owned water utility** or for bonds issued by the Indiana bond bank or the Indiana development finance authority if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or part of:

(A) obligations issued by political subdivisions **and investor owned water utilities**; or

(B) bonds issued by the Indiana bond bank or the Indiana development finance authority.

(b) The budget agency may enter into any agreements with the Indiana bond bank, the Indiana development finance authority, or political subdivisions **or investor owned water utilities** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 36. IC 13-18-21-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The supplemental drinking water assistance fund is established to provide money for grants, loans, and other financial assistance for the benefit of political subdivisions, **investor owned water utilities**, or public water systems that serve economically disadvantaged municipalities.

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and



(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter; shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e); in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the department, the budget agency, a political subdivision, **an investor owned water utility**, a public water system that serves an economically disadvantaged municipality, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 37. IC 13-18-21-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions, **investor owned water utilities**, or public water systems that serve economically disadvantaged municipalities for the planning, designing, acquisition, construction, renovation, improvement, or expansion of drinking water treatment systems and water supply systems and other activities necessary or convenient to complete these tasks,



whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) Pay the cost of administering the supplemental fund and the supplemental program.

(3) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

SECTION 38. IC 13-18-21-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. The budget agency may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a political subdivision, **an investor owned water utility**, or a public water system that serves an economically disadvantaged municipality under the following conditions:

(1) A grant, loan, or other financial assistance must be used:

(A) for planning, designing, acquiring, constructing, renovating, improving, or expanding drinking water treatment systems or water supply systems, and other activities necessary or convenient to complete these tasks;

(B) to:

(i) establish reserves or sinking funds; or

(ii) provide interest subsidies;

(C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.

(2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

SECTION 39. IC 13-18-21-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. A political subdivision, **an investor owned water utility**, or a public water system receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement under this section is a valid, binding, and enforceable agreement of the political subdivision or public water system.

C
O
P
Y



1 SECTION 40. IC 13-18-21-29 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 29. (a) The budget
 3 agency may pledge:

- 4 (1) loans or evidences of other financial assistance; and
- 5 (2) other obligations evidencing the loans or other financial
 6 assistance;

7 from the supplemental fund to secure other loans or financial assistance
 8 from the fund or the supplemental fund for the benefit of political
 9 subdivisions, **investor owned water utilities**, or public water systems
 10 that serve economically disadvantaged municipalities.

11 (b) The terms of a pledge under this section must be acceptable to
 12 the budget agency.

13 (c) Notwithstanding any other law, a pledge of property made by the
 14 budget agency under this section is binding from the time the pledge is
 15 made. Revenues, other money, or other property pledged and thereafter
 16 received are immediately subject to the lien of the pledge without any
 17 further act. The lien of a pledge is binding against all parties having
 18 claims of any kind in tort, contract, or otherwise against:

- 19 (1) the department;
- 20 (2) the budget agency; or
- 21 (3) the supplemental fund;

22 regardless of whether the parties have notice of any lien.

23 (d) A resolution, an indenture, or other instrument by which a
 24 pledge is created does not have to be filed or recorded, except in the
 25 records of the budget agency.

26 (e) Action taken to:

- 27 (1) enforce a pledge under this section; and
- 28 (2) realize the benefits of the pledge;

29 is limited to the property pledged.

30 (f) A pledge under this section does not create a liability or
 31 indebtedness of the state.

C
O
P
Y

